

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16019 of the Marjorie Merriweather Post Foundation of the District of Columbia, pursuant to 11 DCMR 3107.2, for a variance (Subsection 201.1) to allow additions to and modifications of existing structures, new construction and modification of certain conditions of previous Board Orders governing the operation of an approved museum in an R-1-A District at premises 4155 Linnean Avenue, N.W. (Square 2245, Lot 800).

HEARING DATE: January 18, 1995
DECISION DATE: March 1, 1995

ORDER

SUMMARY OF EVIDENCE OF RECORD:

The property which is the subject of this application is located at 4155 Linnean Avenue, N.W. It is bounded by Broad Branch Road to the northeast, Rock Creek Park to the southeast and Linnean Avenue to the west. The site contains approximately 24.5 acres of land, and was formerly the estate of Mrs. Marjorie Merriweather Post. The property includes the main residence building, miscellaneous dependency buildings, several formal gardens, as well as other open space and woodlands. The estate served as a showcase for Mrs. Post's collections which centered on the art of 18th century France and Imperial Russia and also included Native American artifacts. The collections include paintings, porcelain, glass, jewelled articles, textiles and furniture. The estate grounds contain extensive botanical gardens with over 3,500 plant species.

In 1968, Mrs. Post deeded the estate and collections to the Smithsonian Institution, subject to her retention of a lifetime interest. Her intention was to ensure that her estate and collections would "benefit future generations." Upon her death in 1973, the Smithsonian began preparations to operate the estate as a public museum. On July 1, 1976, the Smithsonian, being unable to resolve all of its operational problems, returned Hillwood and its collections to the Marjorie Merriweather Post Foundation of D.C. ("the Foundation".) The Foundation itself, following the desires of Mrs. Post, then determined to pursue the operation of Hillwood as a museum.

The property is located in an R-1-A zone district which permits matter of right development of single-family residential uses for detached dwellings with a minimum lot area of 7,500 square feet, a minimum lot width of 75 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet. Because the R-1-A District does not allow the proposed use as a matter of

right, the applicant is seeking variance relief to continue the use of the property as a museum. The applicant seeks approval to allow new construction, additions to and modifications of existing structures, as well as the modification of certain conditions to Board Orders previously issued on the property.

The Board initially granted variance relief for use of the property as the Hillwood Museum in BZA Order No. 12297 dated April 15, 1977. Approval was for a five year period. Further relief was granted on a permanent basis for continued use of the site in BZA Order No. 13668 dated April 12, 1982. In BZA Order No. 14165, the Board granted permission to build a gardener's staff facility and tool storage addition to an accessory building. In BZA Order No. 14735, the Board granted variance relief to allow additions to the library and gift shop. This order was later modified to address a change in the location of the doorway in the gift shop.

The subject application involves a number of physical and operational changes at the site to address the immediate and long-term needs of the museum. The changes are as a result of the facilities Master Plan which was undertaken by an architectural and engineering consulting team in tandem with the Foundation Board and staff committees. It was completed in concept and accepted by the Foundation Board in June of 1993.

The plan addresses five areas that are critical for the museum's future operations:

1. to provide the necessary capital improvements to protect the collections, structures and grounds;
2. to comply with the Americans With Disabilities Act (ADA) in making Hillwood more accessible;
3. to improve operational efficiencies;
4. to improve the quality of the visitor experience to match the quality of the facility and the collection; and
5. to improve the educational and public requirements of the museum.

As a result of the planning process, this application involves a request for several changes to the physical plant. These changes are critical to the continued viability of the museum and are typical of upgrades necessary for museums of this type. Chief among the various projects to be undertaken are the upgrading of the heating, ventilation and air conditioning systems of some structures and the upgrading of the electrical and security systems to ensure compliance with the Building Code. Also, changes to the

existing buildings are required in order to achieve compliance with the ADA. The planned projects requiring Board approval are as follows:

- o Through interior reconfiguration and a small addition, the current sales shop (the former Chief Butler's House) will become a small exhibition building.
- o The library (former Chauffeur's House) will have a small addition to house offices for the museum curators and storage for a growing book collection.
- o The Administration Offices/CW Post Wing/Cafe will be reconfigured to house conference rooms and space for public education activities, in addition to existing administration and cafe functions.
- o The Grounds building will be razed to make way for a slightly larger structure that will be more adequate for the grounds department's needs and will contain a new boiler and mechanical room to service other structures. It will be attached to the current greenhouse complex, which will be upgraded to achieve handicapped accessibility and improved working and storage efficiency.
- o New wiring and fire suppression equipment will be installed in the Main House and a small space added at the front to improve access and security at the front entry.
- o A new parking area will be added for up to 70 automobiles. This lot will have two levels, each carefully set into the hillside to reduce the exposed portion.
- o An existing unused building will be razed and a new Orientation Center constructed in its place, of similar materials, size and appearance. The building will provide a continuous, fully accessible link between the new parking area and the tour route to the Main House.

The following proposed changes do not require BZA approval:

- o The Visitor's Center (former Carmellia House) will be transformed into office and work space for the maintenance department.
- o The Dacha will have the basement improved for art storage and will have new HVAC equipment and a new fire suppression system.

- o The Native American building will have the basement upgraded to allow for art storage and a replacement fire suppression system.

Implementation of the facilities Master Plan has already begun. It is anticipated that all the projects will be completed within a five to seven-year period. The estimated cost for the plan is approximately \$7.5 million.

Concurrent with the plans for improving Hillwood's facilities is the Hillwood Foundation Board's resolution to seek a selective modification of the conditions contained in the 1977 Board of Zoning Adjustment order. Hillwood's Board has concluded that some provisions inhibit Hillwood's ability to meet its mission. Consequently, the applicant seeks to make the following changes to the conditions in the original Board of Zoning Adjustment order:

Increase in the Limit on Visitors per Day

- o Currently, a maximum of 200 visitors per day is allowed. Hillwood seeks to change this limit as follows:
 - a) Weeks during peak months (April, May, October)
 - o Thursday through Friday - maximum of 300 visitors per day
 - o Saturday - maximum of 325 visitors per day
 - o Sunday - closed to the public
 - b) Weeks during non-peak months (January and February -- closed to the public; March, June, July, August, September, November, December).
 - o Weekdays - Tuesday through Friday - maximum 250 visitors per day - 50 person increase above the current limit
 - o Saturday - maximum of 300 visitors per day
 - o Sunday - closed to the public

Increase in the Number of Visitors per Visitation Period:

- o Currently, there is a limit of 30 visitors for each visitation period for tours of the mansion. Hillwood seeks to increase the limit to 50 visitors for each visitation period, consistent with the increased attendance limits that are being sought, the physical capacity of the main mansion and the need for efficiency of operation.

Extension of hours to allow evening and Sunday functions:

- o Currently, Hillwood is restricted to operating hours of 8:30 a.m. - 6:00 p.m., five days weekly, thereby eliminating the possibility of evening educational functions. Although Hillwood has generally operated on a Tuesday through Saturday schedule, the current BZA restrictions would allow Hillwood to remain open both Saturdays and Sundays as long as it is not open for more than five days each week. Rather than operating for both days every weekend, Hillwood seeks to increase its availability to the public by conducting a maximum of 40 evening educational functions throughout the year, each of which would have a maximum attendance of 100, and ten Sunday events that would be held from 1:00 p.m. to 6:00 p.m., each with a maximum attendance of 100. In addition, Hillwood seeks permission to conduct one annual fundraiser with a maximum attendance of 500.

Other conditions:

- o Several conditions will remain unchanged. All parking will continue to be on the premises and will not be visible from public streets, the Hillwood facilities will not be available for social function rentals and the museum will provide 24-hour security for the site and the immediate neighborhood.

ISSUES AND ARGUMENTS

1. Whether the owner of the property faces a unique or exceptional situation or condition related to the property? Whether the condition creates an undue hardship for the owner in making use of the property in compliance with the Zoning Regulations?

The applicant stated that the Board in its previous order recognized that the Hillwood is truly unique. The applicant noted that the former owner of this large estate expressed in her will the intent to have the property used as a museum to display her art collections. The current owner of the property has operated such a museum consistent with the wishes of Mrs. Post. However, the applicant maintains that some changes are necessary to ensure the efficient operations of the museum.

The applicant submits that the size of the subject site and the existing buildings on the site, the present use of the property, the lack of suitable space in the existing buildings on the property for properly fulfilling the use already approved by the Board, the modest size of the proposed additions and new buildings relative to the size of the estate as a whole and the

need to comply with the Americans with Disabilities Act (ADA), all combine to create a unique situation or condition affecting the property.

The applicant stated that the proposed renovation and expansion of certain buildings and the construction of some new buildings will remedy the substantial impediments to the museum use already approved by the Board. These changes are all reasonably necessary for Hillwood to fulfill its mission and to continue the use established by the Board for the property.

Therefore, strict application of the regulations prohibiting such a use would result in an undue hardship to the Hillwood Museum.

The applicant's statement included an analysis of the museum's financial circumstances. The Director of the Museum testified that the operating expenses exceed the endowment and operating income, therefore, the museum needs to increase its income by increasing attendance by visitors. The applicant maintains that without such increases, the financial viability of the museum is in jeopardy.

The Upton Street Preservation League, Advisory Neighborhood Commission (ANC) 3F and Margaret Miller, a neighbor residing at 4101 Linnean Avenue, N.W. appeared along with other parties in opposition to the application. These opponents argued that the financial information presented by the applicant was offered as evidence of an undue hardship in the instant case. However, the applicant denies that this is the reason for offering the financial information, that this is not a financial hardship case.

The opponents maintain that this is a financial hardship case, but that the applicant has failed to meet the burden of proving a financial hardship would result if the proposed changes and increases are not allowed. The opponents presented information from the Foundations tax records in 1993 to demonstrate that Hillwood's income was more than adequate to offset the deficit between the foundation's earnings from Hillwood's operations and its expenses.

The opponents also argued that the applicant does not need to increase the maximum number of visitors because there have been times when the number of people visiting the museum failed to meet the maximum. Therefore, it will not create a hardship if the maximum is not increased.

2. Whether the proposed changes will be of substantial detriment to the public good or an impairment to the intent, purpose and integrity of the zone plan.

The applicant stated that Hillwood has operated as a museum for 17 years. Based on this experience, the applicant believes that the continued operation of the museum, the addition of two accessory buildings and the modification of certain buildings will not be of a substantial detriment to the public and will not frustrate the goals of the Zoning Regulations in any way.

The Visitor Orientation Center:

The applicant stated that one of the most important improvements proposed for Hillwood is the addition of a new Visitor Orientation Building which will be constructed on the site of the existing head gardener's house, next to the greenhouse. The scale of the building will be in keeping with the existing architecture. Currently, visitor orientation is conducted in what was Mrs. Post's Camellia House. The existing orientation building is small and cannot accommodate all of Hillwood's visitors. As a result, it does not meet the operational standards of similar museums. The new orientation structure will house a room to show the orientation film, a small exhibit area, space for the museum's retail shop, accessible public restrooms and an interior elevator to transport visitors to the street level across from Mrs. Post's home.

By relocating the visitor orientation and retail sales activity into a new structure, there will be reconfiguration of space and function usage in the several other structures. The addition of exhibition and storage space is essential to Hillwood's ability to fulfill its mission.

The other proposed changes to the physical plant described in this order will address the needs for accessibility, efficiency in operation and enhanced display space. These changes are the product of a detailed planning process and 17 years of operational experience. They address Hillwood's immediate deficiencies and its projected needs for the next two decades.

The applicant stated that the proposed physical changes will have no adverse impact on the surrounding community. The total amount of square footage that is being added is extremely small when considered in the context of the 24.5-acre site. There are substantial setbacks from all surrounding lot lines.

The office of planning stated that the total foot print of the proposed new construction on the site is not significant in view of the fact that the site is comprised of 24.5 acres of land.

The USPL and Margaret Miller noted the proposed physical changes to the property and indicated that they do not object to the museum's physical plant. In not objecting to the request for the physical additions and modifications the area residents relied

on the applicant's representations that it could provide adequate screening between the subject property and adjacent residents.

Parking:

The applicant's architect testified about the parking conditions and proposal for the site. The applicant stated that the primary focus of the Hillwood master plan is to replan the visitors orientation and circulation.

Currently, visitors must drive all the way through the site and park at the most remote location on the site, which creates some pedestrian-vehicular circulation problems. There is also a limit to the parking that is available for anticipated and proposed growth.

The space that is currently used for visitors' cars will be designated for staff and bus parking. The current staff parking consists of 44 automobile spaces. That will be increased to 52 spaces. There will be three bus parking spaces.

For visitor parking, the applicant proposes to construct a 70-car, two-story parking deck that blends into the sloping hillside that is at the center of the site and immediately adjacent to the primary visitor access to the main house. The applicant will cut through the two entry drives to provide direct access to the new parking lot. Visitors will continue to be brought through the main entry.

In providing for the parking, the applicant will lose some parking spaces to make the site more pedestrian-oriented and to make it safer for pedestrian circulation on the paved roadway areas. There are currently 48 visitor spaces, which will be increased to 54 spaces. Under the overall master plan, 106 automobiles spaces and three bus parking spaces will be provided.

The applicant maintains that the parking spaces being provided will be adequate based on their parking study which indicates a need for 44 staff spaces and 48 visitor spaces under normal circumstances. Because the parking plan will provide 52 staff spaces and 54 visitor spaces, there will be 14 more spaces than the parking study says is required.

The applicant testified that there will be 14 overflow parking spaces to be used for educational events which would primarily occur outside of the normal museum day.

The Board inquired about the applicant's ability to handle parking for a 500-person fundraiser. In response, the applicant stated that they would park as many people as possible on the grounds and there would be a valet parking program off-site. This

parking could take place on Linnean Avenue or Hillwood might be able to work with the University of the District of Columbia, Howard Law School or some other nearby facility for parking space.

The Office of Planning stated that the proposed parking area is designed to provide a centralized and fully accessible facility for both visitor and staff automobiles. Currently, parking spaces are scattered throughout the site, creating safety hazards and visual discord, and complicating access for the disabled. The centralized parking facility is imposed by the Board's order, the demands of its visitors and to comply with the federal mandate of the Americans With Disabilities Act.

The applicant stated that the proposed parking deck will be located 330 feet from the nearest residence. Further, there will be substantial screening associated with the parking deck and all lighting associated with the site will be sensitive to houses in the surrounding neighborhood.

The applicant stated that it is committed to preserving the 14 to 17 acres of natural woodlands. There is a service drive that goes through the woodlands that will assist the applicant in preserving this area for Hillwood and for the neighborhood.

The applicant stated that it will connect the service lane to the entry gate to ensure that fire and other emergency vehicles have access to the site.

With regard to parking, ANC 3F requested that the Board impose conditions requiring all parking to be located on the premises and not visible from public streets. Also, during construction, cars or vehicles of construction workers and others involved in the construction process shall be parked on the Hillwood property, not on public space or adjoining streets. Visitors' cars and buses shall continue to be parked on the property during the construction process.

Opposing neighbors were concerned about how the applicant would handle visitors who have parked on the street rather than the lot. The applicant indicated that if a visitor walks up to the entry gate, the attendant will inquire about the location of the visitor's car. If it is parked on the street, the attendant will ask the visitor to bring it onto the property. The applicant noted that generally visitors understand the parking situation because they call to make appointments. The applicant testified that the annual fundraiser is the only event for which on-street parking is planned. This event will only occur once a year and neighbors will be notified in advance.

Traffic:

The applicant maintains that the proposed changes will not have an adverse impact on traffic in the area. The applicant's traffic engineer submitted a report related to the traffic conditions in the vicinity of the site. The traffic engineer stated that Hillwood Museum is located on Linnean Avenue, north of Tilden Street in northwest Washington. He noted that the proposed changes to the facility include modified site access and parking. A traffic analysis was conducted to determine the appropriateness of these modifications.

The report noted the current conditions at the site. There are two entrances from Linnean Avenue to Hillwood Museum, referred to herein as the north entrance, which is normally for service vehicles, buses and staff, and the south entrance, which is primarily for visitors. The south entrance provides for ingress only; the north entrance is used for both ingress and egress.

Visitors enter the property at the south gate and work their way through the museum grounds to the 18-space parking lot on the east side of the site. Visitors leave through the north gate. There is also parking for three buses adjacent to the visitors parking lot. Surveys of the travel mode of visitors to Hillwood were made on three days, Friday, October 8, Friday, October 15, and Thursday, October 28, 1993. The survey results showed that the peak accumulation of parked visitors cars was approximately 50 percent of the daily total. A more extensive survey of vehicles entering and leaving the site was conducted by the guards at the two entrances during the month of October 1994. The tabulations were accorded by the hour between 6:00 a.m. and 5:00 p.m. The rounded averages are as follows:

Vehicles Entering			Vehicles Leaving		
<u>Time</u>		<u>No. of Cars</u>	<u>Time</u>		<u>No. of Cars</u>
8:00 a.m.	-	15	1-2 p.m.	-	8
9-10 a.m.	-	12	2-3 p.m.	-	16
10-11 a.m.	-	15	3-4 p.m.	-	23
11-12 noon	-	14	4-5 p.m.	-	20
12-1 p.m.	-	11	5-6 p.m.	-	14

During the same month of October 1994, 32 buses brought 819 people to Hillwood, for an average of 1.5 buses per day, with an average of 25.6 people per bus. Combining the data, approximately 19 percent of the visitors arrived by bus.

Measurements that were made on May 27, November 25, and November 26, 1994 found the following distribution of traffic approaching and leaving Hillwood:

From Upton Street - 23 percent
From Tilden Street - 77 percent
To Upton Street - 29 percent
To Tilden Street - 71 percent

This distribution of traffic is what should be expected by comparing the two approaches. Upton Street is narrow with parking on both sides; passing of vehicles moving in opposite directions must be done slowly and with caution. There is no signal control at the intersection of Upton Street and Connecticut Avenue, so southbound left turns onto Upton Street must contend with on-coming traffic. Tilden Street, by contrast, has a broad, grassy median that separates opposing traffic movements; there is no feeling of constraint. Further, the intersection of Tilden Street with Connecticut Avenue has a traffic signal with a left-turn arrow for southbound vehicles, permitting a free and safe left turn.

Using the percentages shown above, the Hillwood traffic that currently uses Upton Street, on an average day, is:

Time: <u>8-9 a.m.</u>	<u>9-10 a.m.</u>	<u>10-11 a.m.</u>	<u>11-12 p.m.</u>	<u>12-1 p.m.</u>
#Vehicles				
Eastbound 3	3	3	3	3
Time: <u>1-2 p.m.</u>	<u>2-3 p.m.</u>	<u>3-4 p.m.</u>	<u>4-5 p.m.</u>	<u>5-6 p.m.</u>
#Vehicles				
Westbound 2	5	7	6	4

On a typical weekday there are 50 full-time and 20 part-time employees on the site, who, with some car-pooling, arrive in a total of 44 cars. There are currently 45 spaces for staff members' cars, scattered about the site.

The traffic report discussed the effects of the proposed modifications. It noted that if the requested modifications to Hillwood's operation are approved, the maximum number of permitted visitors per day would increase from 200 to 300 on weekdays and 325 on Saturdays in peak months. For evening or Sunday events there could be 100 visitors.

Examining a worst-case condition, with 325 visitors in a day, compared with the current maximum of 200, there could be an increase of 62.5 percent in daily trips. (This assumes, for the purpose of this analysis, that there would be corresponding increases in staff. As a practical matter, there would be

essentially no increase in staff, so that the assumption represents a substantial overstatement of actual trip generation.)

Currently, the volume of traffic entering Hillwood during the peak hour (8:00-9:00 a.m.) is 15; a 62.5 percent increase would add 9 trips. The number of vehicles leaving during the peak hour (3:00-4:00 p.m.) is 23; a 62.5 percent increase would add 14 trips.

Distributing these new peak hour trips, there would be:

From Upton Street	-	2
From Tilden Street	-	7
To Upton Street	-	4
To Tilden Street	-	10

To determine the parking requirements for visitors, it has been assumed that:

- o 20 percent would arrive by bus, so that there would be 67 percent by car/van (plus 13 percent by taxi);
- o with a longer visiting day, visitors would be encouraged to stay longer, so that the peak accumulation of parked vehicles could be 60 percent of the daily total.

Using these data, the traffic engineer determined that the required number of visitor parking spaces on a peak day would be 52. The proposed visitors parking facility is located directly behind the new visitors center. Access for visitors would be much improved over the current situation, with direct ingress from the south gate to the parking. With 54 spaces allocated for visitors, and a provision for 15 additional on-site parked vehicles, there would be adequate space to provide for all visitors on peak days.

For staff members, the future parking would be more consolidated than at present, with 52 spaces to meet a demand for 44 spaces.

The traffic engineering report concluded that the proposed modifications to site access and parking for Hillwood would considerably improve on-site traffic conditions. Visitors' cars would no longer be driven through much of the grounds, including around the circular driveway in front of the historic mansion. There would be a substantial reduction in the number of conflicts between pedestrians and vehicles on the museum grounds. Visitor access would be simple and direct to the well-designed parking facility which has the capacity for normal peak conditions.

Staff parking would be consolidated, further reducing on-site vehicle movements. From a traffic engineering viewpoint, the

proposed master plan recommendations for Hillwood Museum would be both appropriate and desirable.

By memorandum dated February 15, 1995, the Department of Public Works (DPW) addressed the transportation elements of the applicant's proposal.

DPW noted the proposed changes indicating that they include the addition of a new visitor orientation building and the construction of a new parking area to accommodate approximately 70 automobiles.

The report stated that the site is located on the east side of Linnean Avenue, south of Tilden Street and north of Upton Street.

-Linnean Avenue is a local street with a 30-foot wide pavement in the vicinity of the site. Parking is unrestricted on both sides of the street. Access to the museum is from Linnean Avenue.

-Upton Street is a two-way local street with a paved width of 30-feet. Parking is allowed on both sides of the street.

-Tilden Street is a two-way minor arterial with a paved width of 52 feet and an average daily traffic volume of 16,000 vehicles near the site. Parking is allowed on both sides of the street.

To determine the effect of the proposal on the parking circulation and traffic conditions in the vicinity of the site, DPW examined and assessed the existing road network serving the area, the available public transit in the area, the number of additional trips generated by the project and the parking supply to accommodate visitors to the site.

With regard to the road network, DPW noted that the project fronts on Linnean Avenue, a local street. Access to the museum is from Linnean Avenue via two driveways. The main approach to the site from the east, south and the north is Tilden Street, a minor arterial as stated previously. A secondary approach to the site from the west is Upton Street a local roadway.

With regard to mass transit, the site is not directly served by the Metrobus or Metrorail system. The nearest Metrobus route is on Connecticut Avenue, approximately 2,900 feet from the site. The lack of sidewalk along Linnean Avenue would be another barrier to pedestrian-oriented visitors who would be inclined to use the Metrobus system. For all practical purposes, it can be stated that the site is only accessible by automobile.

With respect to trip generation, DPW noted first that admission to the museum is by advance reservation. According to the applicant's survey of visitors' travel modes, 45 percent arrive by cars/vans, 41 percent travel by bus and 14 percent travel by taxi service. Assuming that the number of visitors is increased from 200 to 300 on weekdays, applying the above modal split, there will be 23 cars with a car occupancy of two persons, two buses with 22 persons per bus and 14 taxis with one person per taxi for a total number of 39 vehicles per average day. Assuming conservatively that 40 percent of these trips will occur during the morning and evening peak hours, there will be 16 vehicles added to the external street system. Based on the existing distribution of traffic approaching the site, 26 percent, or five vehicles, will use Upton Street while 11 will use Tilden Street during the peak hour. In DPW's judgement, this amount of traffic will have a negligible impact on the street system in the area. However, DPW noted that the applicant has some control over how visitors approach the site since admission to the museum is by advance reservations. To minimize or eliminate the use of Upton Street by visitors, the applicant could instruct visitors to use Tilden Street as the most direct approach to the site.

DPW noted that in conducting this analysis, it did not consider the impact of visitor traffic on weekends because from the standpoint of capacity and level of service of the area street system, weekends are not critical. With respect to parking supply, DPW believes that the 70 parking spaces to be provided will be adequate to support the project.

Finally, DPW concluded that from a transportation standpoint, the proposal will not result in an adverse impact on the local transportation system. Therefore, DPW has no objection to the proposal.

In its memorandum, OP stated that it defers to DPW's review and recommendation on the issue of traffic impacts.

Advisory Neighborhood Commission (ANC) 3F expressed concerns about the traffic impacts and recommended conditions to address these concerns. The ANC believes that with the large number of visitors proposed for the site, the impact on traffic conditions will be adverse to the immediate neighborhood. If an additional 150 people attend the annual fundraiser and 75 cars are added to the site, it will take longer for the attendees to exit the site and the community. The ANC noted the concerns of neighbors that Linnean Avenue is a hill and traffic trying to go up Linnean Avenue would have a difficult time doing so if there are several cars leaving the museum site at the same time. Parked cars on both sides of the street make it narrow, sometimes impassable except in one direction. They are concerned that if Linnean Avenue is not passable and there is a back-up for cars heading toward Tilden

Street, the cars would turn right onto Upton Street, creating difficulties there. Therefore, the ANC requested that "No Right Turn" signs would be placed where cars exit the site.

The ANC was also concerned that traffic problems would be created by cars queuing up at the entrance if the applicant checks attendance.

The Upton Street Preservation League (USPL) also expressed concerns that the traffic will adversely affect the neighborhood. USPL stated that there will be a three-fold increase in traffic in the neighborhood. Area residents have complained about cars queuing up on their streets. Based on the information provided USPL maintains that the proposal will generate 380 or more car trips daily.

The opposing neighbor who resides at 4101 Linnean Avenue, N.W. stated that at times visitors to the museum queue up in front of her property to enter the site. At present, this queuing poses no serious problem because it only occasionally, results in a line of more than three cars. She is concerned that a doubling in the number of visitors will result in cars blocking her driveway and the entrance to Tilden Place. While the guards at this gate process the cars quickly, some substantial queuing will inevitably occur on the occasions when 100 people arrive at the same time even if they arrive two to a car. She stated that the museum's director would not consider processing visitors in cars either at the north gate where the queuing starts or at a point inside the museum property so as to avoid queuing that blocks access to her driveway or Tilden Place.

To alleviate these concerns the opposing neighbor requested that the Board prevent the museum from allowing more than three cars to queue on Linnean Avenue if the Board allows a substantial increase in visitors.

On rebuttal, the applicant's traffic consultant testified that the increase in traffic will only amount to 15 additional trips per day, four of which would use Upton Street. He maintains that this small increase will not have an adverse impact on traffic in the area.

Hours of Operation:

Currently Hillwood is restricted to operating hours of 8:30 a.m. to 6:00 p.m. five days per week. While the current BZA order allows the museum to operate on weekends, Hillwood has generally operated on a Tuesday through Saturday schedule.

Through this application, the museum seeks to make certain changes to its schedule (See the discussion of extension of hours on page five of this order.

The Office of Planning was of the opinion that the number of evening and Saturday functions would not result in substantial non-traffic related adverse impacts on the immediate neighborhood. However, other parties to the application expressed concerns related to the applicant's proposal.

The ANC noted that the current BZA order does not specify which days the museum is to operate. However, the ANC recommended that there be a condition limiting the days of operation to Tuesday through Saturday to allow the community one weekend day of peace and quiet. The ANC also recommends that the annual fundraisers end at 10:00 p.m.

The Upton Street Preservation League recommended the following related to hours of operation: - The museum shall be open to the public no earlier than 8:30 a.m. and no tour shall be scheduled to end later than 6:00 p.m. Twelve evening events may be held on the conditions that they are scheduled for Monday through Thursday and are schedule to end by 9:00 p.m.

Number of Events and Visitors:

The applicant's proposal includes an increase in the number of events and the number of visitors allowed at the site.

Peak vs. non-peak Months.

During the peak months - April, May and October - the applicant proposes to operate Tuesday through Friday with a maximum of 300 visitors and Saturday with a maximum of 325 visitors. The facility would be closed on Sunday.

During non-peak months - March, June, July, August, September, November and December - the applicant proposes to operate Tuesday through Friday with a maximum of 250 visitors and Saturday with a maximum of 300 visitors. The facility would be closed to the public on Sundays and during the entire months of January and February.

The applicant seeks to increase its availability to the public by conducting a maximum of 40 evening educational events throughout the year, each of which would have a maximum attendance of 100, and ten Sunday events to be held from 1:00 to 6:00 p.m. also with a maximum attendance of 100.

The applicant proposes to host one annual fundraiser with a maximum attendance of 500.

The applicant requests that the limit on the number of visitors allowed at the site during each visitation period be increased from 30 to 50 visitors.

The Upton Street Preservation League wishes to limit the museum's operations to Tuesday through Saturday, with 100 persons maximum including staff. The UPSL is willing to allow 12 evening events scheduled two per month for April, May and October, and one per month in other months. A maximum of 100 persons shall attend and the events shall end no later than 9:00 p.m. Finally, USPL agrees to the one fundraiser annually, but with a maximum of only 350 persons.

The ANC proposes the following conditions related to number of events and visitors:

- A. The museum shall be made available to the public no more than five days a week retaining the present schedule of Tuesday through Saturday.
- B. Visitors shall be admitted by appointment only.
- C. No more than 250 visitors shall be allowed on any single day with the following exceptions:
 - 1. Peak months of April, May and October - 275 visitors.
 - 2. Annual Fundraiser - 350 visitors.
- D. Visitors shall be limited to no more than 50 persons for each visitation period, which shall be scheduled on a staggered basis during the hours of operation.
- E. The museum shall open no earlier than 8:30 a.m., and no tour shall be scheduled to end later than 6:00 p.m. with the following exceptions:
 - 1. 16 evening educational events (limited to 100 attendees) a year (with no more than two a month) ending at 9:30 p.m.
 - 2. One annual fundraiser ending at 10:00 p.m.

The one opposing neighbor stated that the museum has traditionally closed on Sundays and neighbors fear that the applicant will schedule events every Sunday in the spring and fall months when they most enjoy being outside. The witness stated that she and the area residents appreciate their Sundays when they are quiet and free from museum traffic. Therefore, they request that the Board restrict the museum from opening to the public on Sundays. They believe that it is fair to restrict such activities

because the museum is a public facility operating in an R-1 residential neighborhood and it should accept such limitations on its public activities.

On rebuttal, the applicant stated that it has sought to increase the number of people allowed at the annual fundraisers to 500 because there is a membership program called "Friends of Hillwood" and it has 375 members. If the members attend fundraisers with their spouses, more people would need to be accommodated.

The applicant also explained the need to increase the number of persons per tour to 50 persons by stating that tour buses carry about 46 persons and usually bus drivers are on a schedule and cannot wait for the museum to split the group into two separate tours of smaller groups. With a group of 50, the whole bus group can be accommodated in one tour.

Use of Hillwood by Outsiders:

Parties in opposition to the application requested that the applicant not rent out the museum to outsiders for so called "educational" events, fundraisers, or social events.

The applicant has agreed not to make the premises available to outside groups for any type of social functions.

Community Liaison:

Opponents requested that a liaison be established to work with the community. The applicant stated that a "Neighborhood - Hillwood Committee" will be established. The Committee will meet quarterly to monitor Hillwood activities and resolve any problems that arise in relation to the facility.

Security:

The applicant agreed to provide security at the site 24-hours per day, seven days per week, as requested by the opponents.

Outdoor Concerts:

Responding to concerns of opposing neighbors, the applicant agreed not to have amplified concerts on the museum grounds.

3. Whether granting the application will substantially impair the zone plan?

The applicant stated that the Board has concluded in previous orders that the operation of the museum at Hillwood would be compatible with the R-1-A District and that the proposed mode of operation would not constitute any greater intrusion in that

residential district than uses permitted as a matter of right such as churches, embassies or public schools.

For example, Hillwood could be developed with 84 single-family houses on 10,900 square foot lots. Such a use would generate 840 trips on an average day, almost four time more traffic than the existing use. A development with 7,500 square foot lots would result in 142 houses and over 1,420 trips per day. Clearly, Hillwood Museum's impact is far less intensive than many alternatives including the residential development of the site. The applicant noted that in past orders involving the site, the Board's standard for determining impact on the zone plan was to compare the proposed use with possible matter of right uses.

The Office of Planning was of the opinion that the applicant's proposal would continue to meet the test discussed in earlier orders and that it would not impair the intent and purpose of the Zoning Regulations and Map.

The Upton Street Preservation League stated that Hillwood has been a good neighbor but the present proposal far exceeds existing operations and represents a significant intrusion on the R-1-A District's residential character.

Opposing neighbors maintain that the proposed use will not have less of an impact on the area than constructing single-family houses because the residents of these houses would not be traveling area streets all at once the way that Hillwood visitors do. Therefore, opponents believe that the proposed use will impair the intent and purpose of the zone plan.

FINDINGS OF FACT:

Based on the evidence of record the Board finds as follows:

1. Use of the property is subject to the terms of the previous owner's will which requires that the museum operate at the site.
2. Physical and operational changes at the facility are needed to ensure the continued viability of the museum.
3. The proposed changes to the physical plant will address the need for efficiency in operation and the applicant's obligation to meet the requirements of the Americans With Disabilities Act regarding accessibility for the disabled. The changes will address the museum's immediate deficiencies and its projected needs for the next two decades.

4. The proposed construction will allow for substantial setbacks from all lot lines so as not to adversely affect the nearby residences.

5. The wooded areas on the site provide a substantial natural screening between the site and nearby properties.

6. The increased limit in the number of visitors per day is essential for the applicant to meet the current demands faced by the museum. An increase in visitor limits will also enable Hillwood to enhance its existing outreach programs which are essential to the mission of the museum.

7. The applicant's request to change the days and hours of operation is based on the need to address the interests of individuals who work during the day and are generally unable to visit Hillwood during the week because of its limited hours.

8. The applicant has no need to rent the facilities to outsiders for social functions.

9. The increase in the number of attendees allowed for the annual fundraiser is necessary to accommodate the Friends of Hillwood members and their guests.

10. Because the fundraiser will only occur once annually, traffic and parking associated with the function will not create significant problems for the neighborhood.

11. There is an immediate need for centralized and accessible on-site parking for both visitors and staff cars. The proposed parking facility is critical to the applicant's ability to meet the requirements imposed by past Board orders, the ADA, and to meet the demands of its visitors.

12. The proposed parking deck will provide adequate spaces for those who drive to the museum for tours and educational events. It will help to prevent overflow parking on the streets.

13. The proposed parking deck will be located 330 feet from the nearest residence. This is adequate to buffer the parking facility from the residences nearby.

14. The proposed increases in the peak and non-peak month maximums will add an average of 40 trips per day, spread over several hours. These additional trips will only have a negligible impact on the area street system.

15. By increasing the number of visitors to 50 per visitation period, the applicant will be able to increase the number of bus tours it can accommodate. This will have the

positive affect of helping to reduce the automobile traffic during bus tours.

16. A community liaison committee is needed to work with area residents and facilities on issues related to Hillwood.

17. A matter of right development of single-family dwellings on the site would create a greater traffic impact than the proposed use.

18. The museum use is not so intrusive as to be inconsistent with the residential zoned district in which it is located.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking a variance from the use provisions to allow additions to and modifications of existing structures, new construction and modifications of certain conditions of previous Board orders. The granting of such a variance requires a showing through substantial evidence of an undue hardship on the owners arising out of some unique or exceptional shallowness, shape or topographical condition. The Board must find that the property cannot be used for any purpose allowed as a matter of right. Further, the Board must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan. The Board concludes that the applicant has met this burden of proof.

The Board concludes that the property is subject to the provisions of the will of Marjorie Merriweather Post requiring that the site be used as a museum to display her art collection and the grounds. The use has been established and the proposed additions, new construction and operating changes are necessary for the continued viability of the museum use. Therefore, the Board concludes that the owner of the property would face an undue hardship if the variance relief is denied.

The Board concludes that granting the application will not be of substantial detriment to the public good, nor will it substantially impair the intent, purpose and integrity of the zone plan for the R-1-A District.

The Board concludes that it has afforded the ANC the "great weight" to which is entitled. In light of the foregoing, the Board concludes that the application is hereby **GRANTED, SUBJECT** to the following **CONDITIONS**:

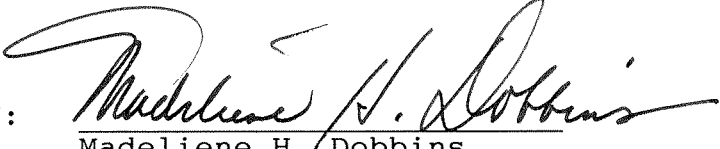
1. The facility shall be open five days per week for regular daily visits. Sundays are not to be included in this schedule.
2. The hours of operation for regular daily visits shall be from 8:30 a.m. to 6:00 p.m.
3. A maximum of 250 persons shall be allowed to visit the site each day of regular operation.
4. A maximum of 50 persons shall be allowed inside of the museum at any one time.
5. Visitors shall be admitted by appointment only.
6. All parking shall occur on the premises.
7. The applicant shall be allowed to have a maximum of 16 educational evening activities per year.
8. The educational evening activities shall end no later than 10:00 p.m.
9. The applicant shall be allowed to have four Sunday afternoon events in the first year, with one additional event being added each year with an ultimate maximum of ten Sunday afternoon events.
10. A maximum of 100 persons shall be allowed to attend each Sunday afternoon event.
11. The applicant shall be allowed to have one annual fundraiser.
12. No more than 350 people shall be allowed to attend the annual fundraiser.
13. No amplified outdoor concerts shall be allowed at the site.
14. The applicant shall establish a liaison committee made up of the ANC, area residents and institutions to coordinate the activities of the applicant's facility and nearby institutions. The committee shall meet at least quarterly to resolve any problems raised by its members.
15. No outside groups or individuals shall be allowed to rent the applicant's facility.
16. The applicant shall provide security at the site 24 hours a day, seven days a week.

17. A "No right turn" sign shall be installed at all vehicular exits from the site.
18. The applicant shall request that visitors exit from the facility toward Tilden Street.
19. All construction equipment, supplies and parking shall be located within the boundaries of the applicant's site.

VOTE: 4-0 (Susan Morgan Hinton, John G. Parsons, Laura M. Richards, and Craig Ellis to grant; Angel F. Clarens not voting, having recused himself).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


Madeliene H. Dobbins
Director

Final Date of Order: OCT 26 1995

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16019

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on OCT 26 1995 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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MADELIENE H. DOBBINS
Director

DATE: OCT 26 1995